

Year in Review

OVERVIEW OF WAGERING ACTIVITY

There was a negligible decline in the total dollar amount wagered on charitable gaming activities during 2005-06 compared to the previous fiscal year. Overall, \$250,768,496 was wagered on bingo, pickle cards, lottery/raffle and county/city lottery for the annual period ending June 30, 2006, as compared to \$251,889,510 in 2004-05.

Bingo gross receipts for the year were \$14,051,926, which is 1.5 percent less than the previous fiscal year when \$14,268,212 was wagered on bingo. There was also a reduction in the reported number of bingo players from 567,980 for 2004-05 to 555,905 for the most recent fiscal year.

Pickle card gross proceeds for the year were \$45,943,737, which represents an overall decrease of 9.6 percent as compared to the previous fiscal year, when pickle card gross proceeds were \$50,819,571. The total number of pickle card units sold decreased from 24,984 to 23,152. There was a significant reduction in the number of pickle card operators (businesses licensed to sell pickle cards on behalf of nonprofit organizations), which may have been a contributing factor.

Lottery and raffle gross proceeds for the year were \$5,432,488, which is a 2 percent decrease in gross wagering from the previous fiscal year, when \$5,545,781 was wagered.

County/city lottery (keno) gross proceeds for the year were \$185,340,795, which is 2.3 percent more than the previous fiscal year, when \$181,255,946 was wagered.

LEGISLATION

The Department of Revenue did not request the introduction of any new legislation during the 2006 Legislative Session. LB209, a carryover bill from 2005, would have repealed obsolete language relating to annual licensing of charitable gaming activities. LB1086, enacted in 2000, authorized biennial licensing for all charitable gaming activities. Implementation was staggered over two years and has been completed. LB209 was placed on General File by the General Affairs Committee but no further action was taken by the Legislature.

Senator Patrick Bourne introduced LB1048, which was another attempt to authorize the use of electronic pickle card devices. The bill was substantially the same as LB733, which he introduced in 2005, which failed to advance. The function of such devices would have been identical to the traditional paper pickle card game, but the pickle card would have been opened by moving a finger over an electronically displayed card. LB1048 was indefinitely postponed by the General Affairs Committee.

Senator Ray Janssen introduced LB1110 on behalf of several keno lottery operators to authorize another form of county/city lottery referred to as electronic keno. Senator Janssen publicly stated his opposition to the bill during the public hearing, but agreed to offer the legislation to facilitate public input. LB1110 was indefinitely postponed by the General Affairs Committee. LB1110 was a precursor to the video keno initiative petition which appeared on the November 2006 ballot and was subsequently defeated.

ADMINISTRATION, AUDIT, AND ENFORCEMENT

The Charitable Gaming Division consists of four (4) functional areas: Licensing, Policy, Audit, and Inspections.

- ◆ **Licensing** is responsible for the licensing of individuals, businesses, nonprofit organizations, counties, cities, and villages to conduct charitable gaming activities in Nebraska. The number of licenses issued by type is reflected on page 13 of this report, which includes a comparison to the prior reporting period. Bingo licensees decreased by 5 in 2005-06 and nonprofit organizations licensed to conduct a lottery by the sale of pickle cards decreased by 7. There was a significant

Year in Review (Cont.)

decrease in the number of retail establishments (pickle card operators) which sell pickle cards on behalf of nonprofit organizations (139).

The Division is exploring the replacement of the existing FoxPro license database with an outside software provider or upgrading its database requirements in-house. The FoxPro database has served our license application and tax return processing needs since the 1998-99 license year. However, the Department's Finance and Management Services Division is moving toward conversion of existing FoxPro databases to Oracle and may not continue to support FoxPro in the future. The Division's objectives are to further integrate the various databases relating to charitable gaming activities, eliminate or minimize data redundancy, and better facilitate electronic filing, reporting, and license application processing.

- ◆ **Policy** is responsible for the implementation of legislation enacted by the Nebraska Legislature relative to charitable gaming activities, identification of needed legislative changes in the charitable gaming areas which it regulates, recommendation and drafting of proposed legislation relative to charitable gaming, promulgation of administrative regulations and revenue rulings to clarify and supplement statutory provisions, development and publication of information guides, and for the rendering of day-to-day opinions and interpretations of charitable gaming laws and regulations.

Revised bingo regulations primarily related to electronic bingo card monitoring devices were formally adopted on September 5, 2005. Revised county/city lottery (keno) regulations related to record keeping and reporting requirements, game conduct, and compliance review were formally adopted on November 13, 2005.

As reported last year, the Policy staff still receives numerous inquiries from nonprofit organizations and bar owners regarding the legality of Texas Hold'em Poker Tournaments. All such callers are referred to local prosecutorial authorities for a determination as to the legality of any proposal. Nebraska's lottery and raffle laws are also an area of confusion for many nonprofit organizations and generate a significant portion of the inquiries we receive on charitable gaming activities.

The video keno lottery initiative petition was the focal point for several of the lottery operators during the latter part of the fiscal year culminating in its defeat in the November 2006 election.

- ◆ **Audit** is responsible for the financial compliance review of nonprofit organizations conducting bingo, pickle card, and lottery/raffle activities, as well as counties, cities, and villages conducting county/city lottery (keno). Activities include field audits of gaming operations, the review of annual reports submitted by bingo, pickle card, and lottery/raffle licensees, the review of quarterly tax returns submitted by licensees, and the review of keno audit reports submitted by independent certified public accountants on behalf of counties, cities, and villages.

The Division has continued to enhance its regulatory effectiveness with respect to county/city lottery (keno) activities. Keno represents over 70 percent of the total dollars wagered on charitable gaming activities. Commencing with the 2005-06 annual reporting period, the performance of an annual audit of a keno lottery by an independent certified public accountant was no longer mandatory. The independent audit was replaced by compliance procedures prescribed by the Department which may be performed by the county, city, or village or by a contracted professional. A report summarizing the findings from the performance of the compliance procedures and a Nebraska County/City Lottery Annual Report, Form 35K, must be filed by the county, city, or village within 90 days of the end of its fiscal year. The compliance review has been supplemented by increased on-site inspections and financial reviews of the keno operations by Division staff. During the upcoming fiscal year, we will evaluate the regulatory effectiveness of these changes and make appropriate modifications as deemed necessary in order to further insure the integrity of these activities.

Year in Review (Cont.)

Audit activities for the reporting period were as follows:

- 548 Pickle card annual reports reviewed
- 168 Bingo annual reports reviewed
- 141 Lottery/raffle annual reports reviewed
- 67 County/city lottery (keno) annual reports reviewed
- 41 Organizations which did not file timely annual reports identified and referred to Legal Services, Inspections Section, and/or Investigative Services
- 22 Annual report shortages or audited losses (field visits) identified and referred to Inspections Section, and/or Investigative Services
- 11 Other annual report violations identified and referred to Inspections Section, Investigative Services, Policy Section, or Legal Services
- 10 Field audits of bingo operations
- 7 Field audits of pickle card operations
- 49 Field audits of keno operations (county/city lottery)

- ◆ **Inspections** is responsible for the performance of on-site inspections of charitable gaming licensees. In addition to the main office in Lincoln, the inspectors work out of regional offices located in Scottsbluff, Norfolk, Omaha, and Grand Island. In addition to performing routine inspections of bingo, pickle card, and lottery/raffle activities, the inspectors review county/city lottery (keno) operations, verifying the license status of lottery workers, performing unannounced keno writer drawer audits, reviewing the sponsoring community's oversight, and various compliance issues relating to game conduct.

Inspection activities for the reporting period were as follows:

- 79 Bingo game inspections
- 115 Organization pickle card inspections
- 32 Organization lottery/raffle inspections
- 815 Pickle card operator inspections
- 310 Keno compliance inspections
- 16 Formal presentations to gaming licensees or potential licensees
- 1,067 Mechanical Amusement Device (MAD) inspections
- 83 Annual report reviews and filing follow-ups
- 206 Administrative contacts and inquiries
- 1,669 Nebraska retailer tobacco inspections

Investigative Services is responsible for investigative and enforcement functions involving charitable gaming activities, as well as numerous other responsibilities within the Department. Investigative Services staff members are located at various locations throughout the state and have responsibility for general investigations and license applicant background investigations.

Investigative Services continues to work closely with the Charitable Gaming Division on gaming related matters in an effort to keep gaming activities as well enforced as possible, and yet flexible enough to accommodate the public. The investigations conducted by the service area are both civil and criminal in nature and, following completion, a large number of those investigations are forwarded to local

Year in Review (Cont.)

prosecuting attorneys for potential criminal prosecution. Investigative Services continues to enjoy an excellent working relationship with various law enforcement agencies and prosecuting attorneys throughout the state.

Activities for the reporting period were as follows:

- 2 Manufacturer, distributor, and lottery operator background investigations
- 115 Investigations resulting from alleged violations and/or complaints (all gaming activities combined)

There were several significant investigations this year which resulted in criminal prosecution:

- ✓ A bingo gaming manager in Lincoln was convicted of theft by unlawful deception and sentenced to 20 months to three years in prison.
- ✓ Several Omaha keno writers/employees devised a scheme to manipulate the ball draw selection of winning numbers and subsequent wagering to ensure winning tickets. Six keno writers/employees were convicted of theft by deception, along with restitution ordered by the courts.
- ✓ A keno writer in Kearney was playing keno while on duty and playing on credit. The individual was convicted of theft by unlawful taking, sentenced to a jail term and 2 years probation with restitution ordered by the courts.
- ✓ A keno writer in Kimball was playing keno while on duty. The individual was convicted of illegal lottery participation, 1st offense, and was fined by the court.

In response to these and similar incidents which have occurred at various keno operations in Nebraska, the Charitable Gaming Division and Investigative Services recently established a toll-free tip line to be used by players and the general public to anonymously report suspicious activity at any location in Nebraska where keno is conducted. Table tents and posters are being distributed to participating keno locations throughout the state to advertise the availability of the tip line. Additional information is available on the Department's Web site. We have requested the voluntary participation of the counties, cities, villages, and lottery operators in disseminating information regarding the tip line.

The use of illegal gambling devices in Nebraska continues to be a problem which impacts other forms of legal gambling. Occasionally Division inspectors encounter the use of possible illegal gambling devices while performing routine on-site inspections of charitable gaming licensees. Since the Division does not have any jurisdiction with respect to illegal gambling devices, all such instances are referred to the Nebraska State Patrol for appropriate enforcement follow-up. In addition, a letter regarding the suspected illegal device is sent to the applicable County Attorney.

During the 2005-06 reporting period, 30 possible illegal gambling devices were detected in the following counties:

| | | | |
|----------|---|--------|---|
| Adams | 6 | Gosper | 1 |
| Buffalo | 3 | Hall | 4 |
| Cheyenne | 1 | Harlan | 2 |
| Dakota | 1 | Howard | 3 |
| Dawson | 4 | Phelps | 5 |

The number of illegal gambling devices detected this fiscal year (30) was considerably less than 2004-05, when 161 possible devices were detected. This reduction may be attributable to the joint effort undertaken by the Attorney General's office and the Nebraska State Patrol to crack down on illegal gambling devices earlier this year.

Year in Review (Cont.)

ADMINISTRATIVE ACTIONS

During the reporting period, the Charitable Gaming Division initiated and/or resolved several administrative actions involving charitable gaming license applicants and licensees.

Activities for the reporting period were as follows:

Administrative Orders Issued:

| | |
|----------------------------|---|
| License application denial | 3 |
|----------------------------|---|

Administrative Actions Initiated and Pending:

| | |
|----------------------------|---|
| License application denial | 6 |
| License suspension | 1 |

Administrative Actions Initiated and Resolved without an Order:

License Application Denial and License Suspension, Cancellation, Revocation

| | |
|---|----|
| Rescinded* | 16 |
| Resolved by operation of law** | 49 |
| Resolved by stipulation, suspension, and/or fine*** | 7 |
| Dismissed | 18 |

Administrative Fine

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| Waiver of hearing and payment of fine*** | 1 |
| Dismissed | 3 |

Temporary Licenses Granted:

Temporary licenses were granted by the State Tax Commissioner to applicants where the Department sought to deny a license application in order to protect the rights of the parties during the pendency of any administrative or court proceedings. As of the close of the annual reporting period, the following temporary licenses and authorizations had been granted:

| | |
|---|---|
| Class II Bingo | 1 |
| Pickle Card Operator | 4 |
| Class I Lottery by the Sale of Pickle Cards | 1 |
| County/City Lottery Sales Outlet Location | 4 |
| County/City Lottery Worker | 8 |

- * License application denials were rescinded for a number of reasons, including the applicant withdrew the application and the payment of delinquent taxes in instances when the license application denial was based upon nonpayment of taxes.
- ** Resolution by operation of law occurs when a license application denial becomes final because a license applicant does not respond to a Notice of Intent to Deny within the 30-day time period allowed to request an administrative hearing.
- *** Total amount collected \$50.00. Monies collected from the administrative fines levied are deposited by the State Treasurer into the permanent school fund.